

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

HARRY NIEBERG, an individual, and  
HARRY NIEBERG FUNERAL HOME INC., a New  
York corporation,

Plaintiffs,

v.

NIEBERG MIDWOOD CHAPEL INC., a New York  
Corporation; MIDWOOD MEMORIAL CHAPEL INC.,  
a New York corporation,

Defendants.

Case No. : 08 CV 00392

**MOTION TO ADMIT  
COUNSEL PRO HAC VICE**

PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Courts for  
the Southern and Eastern Districts of New York, I, Joseph F. Uvino, a member in good standing  
of the bar of the Court, hereby move this Court, as set forth in the Affidavit attached as Exhibit 1,  
for an Order allowing the admission *pro hac vice* of

Applicant's Name: STEVEN A. GIBSON  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

Applicant's Name: JODI DONETTA LOWRY  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

Applicant's Name: ROBERT A. SCHAFER  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

STEVEN A. GIBSON is a member in good standing of the Bar of the States of Nevada and Illinois. JODI DONETTA LOWRY is a member in good standing of the Bar of the State of Nevada. ROBERT A. SCHAFFER is a member in good standing of the Bar of the State of Nevada. *See* respective Certificates of Good Standing attached as Exhibit 2.

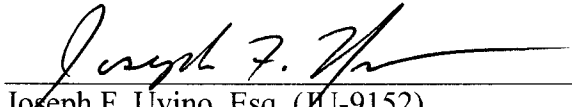
There are no pending disciplinary proceedings against STEVEN A. GIBSON, JODI DONETTA LOWRY, or ROBERT A. SCHAFFER in any State or Federal Court.

WHEREFORE it is respectfully requested that this motion to admit Mr. Gibson, Ms. Lowry and Mr. Schaffer, *pro hac vice*, to represent Plaintiffs in the above-referenced matter, be granted.

Dated: March 6, 2008.  
City, State: New York, New York

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By   
\_\_\_\_\_  
Joseph F. Uvino, Esq. (JU-9152)  
199 Water Street, 25<sup>th</sup> Floor  
New York, New York 10038  
(212) 232-13001  
*Attorneys for Plaintiffs Harry Nieberg and  
Harry Nieberg Funeral Home Inc.*

TO:

Nieberg Midwood Chapel, Inc.  
1625 Coney Island Avenue  
Brooklyn, New York 11230

Midwood Memorial Chapel Inc.  
1625 Coney Island Avenue  
Brooklyn, New York 11230

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                      ) ss:  
COUNTY OF KINGS )

**Toni Serrant**, being duly sworn, deposes and says:

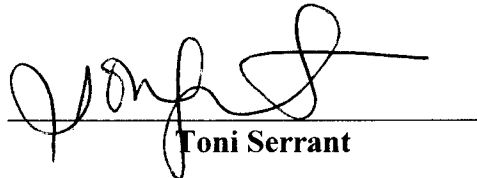
I am not a party to this action, I am over eighteen (18) years of age and I reside in the State of New York, County of Kings.

That on the 7<sup>th</sup> day of March, 2008, I served a copy of a **MOTION TO ADMIT COUNSEL PRO HAC VICE** upon the following:

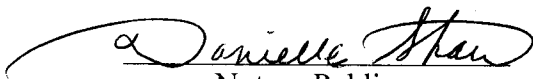
Nieberg Midwood Chapel, Inc.  
1625 Coney Island Avenue  
Brooklyn, New York 11230

Midwood Memorial Chapel Inc.  
1625 Coney Island Avenue  
Brooklyn, New York 11230

by mailing same in a sealed envelope, via **U.S. Mail** within the State of New York.

  
Toni Serrant

Sworn to before me this  
7<sup>th</sup> day of March, 2008.

  
- Notary Public -

DANIELLE SHAW  
NOTARY PUBLIC, State of New York  
No. 01SH6151041  
Qualified in Kings County  
Commission Expires 8/7/2010

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

HARRY NIEBERG, an individual, and  
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NIEBERG MIDWOOD CHAPEL INC., a New York  
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Defendants.

Case No. : 08 CV 00392

**AFFIDAVIT OF JOSEPH F.  
UVINO IN SUPPORT OF  
MOTION TO ADMIT  
COUNSEL PRO HAC VICE**

Joseph F. Uvino, Esq., being duly sworn , herby deposes and says as follows:

1. I am an attorney with Lewis Brisbois Bisgaard & Smith LLP, the attorneys for Plaintiffs HARRY NIEBERG and HARRY NIEBERG FUNERAL HOME INC., in the above-referenced matter. The matters stated herein are true and correct of my own personal knowledge, and if called upon, I could and would testify thereto.

2. I respectfully submit this affidavit in support of the motion of Steven A. Gibson, Esq., Jodi Donetta Lowry, Esq., and Robert A. Schaffer, Esq. to appear as counsel *pro hac vice* on behalf of Plaintiffs HARRY NIEBERG and HARRY NIEBERG FUNERAL HOME INC., with respect to the above-referenced matter.

3. I was admitted to practice before the Bar of the State of New York on December 8, 1987. Additionally, I am admitted to practice before the United States District Court for the Southern District of New York.

4. I am a member in good standing of each of the bars to which I have been admitted, and have never been censured, suspended, disbarred or held in contempt by any court.

5. I have found Mr. Gibson to be a skilled attorney and person of integrity. He is familiar with Federal Practice and is familiar with the Federal Rules of Civil Procedure. Mr. Gibson has been licensed as an attorney since 1990, has been duly admitted to practice in the state of Nevada since October 1998, and is currently a member in good standing of the State Bar of Nevada and Illinois Bar.

6. I have found Ms. Lowry to be a skilled attorney and person of integrity. She is familiar with Federal Practice and is familiar with the Federal Rules of Civil Procedure. Ms. Lowry is an attorney duly admitted to practice in the state of Nevada since November 2001, and is currently a member in good standing of the State Bar of Nevada.

7. I have found Mr. Schaffer to be a skilled attorney and person of integrity. He is familiar with Federal Practice and is familiar with the Federal Rules of Civil Procedure. Mr. Schaffer is an attorney duly admitted to practice in the state of Nevada since October 2006, and is currently a member in good standing of the State Bar of Nevada.

8. Mr. Gibson is a partner with, and Ms. Lowry and Mr. Schaffer are associates with, Lewis, Brisbois, Bisgaard & Smith, LLP, located at 400 South Fourth Street, Suite 500, Las Vegas, Nevada, and are counsel representing the Plaintiffs in the above-referenced matter.

9. The undersigned knows of no fact that would call into question the integrity or character of Mr. Gibson, Ms. Lowry or Mr. Schaffer.

10. There is good cause to admit Mr. Gibson, Ms. Lowry and Mr. Schaffer to practice before this Court insofar as they have specialized knowledge of the matters at issue in this case. Mr. Gibson, Ms. Lowry and Mr. Schaffer have specialized knowledge and expertise in trade name infringement cases as involved in the case at bar. Therefore, Mr. Gibson's, Ms. Lowry's and Mr.

Schaffer's application *pro hac vice* to represent Plaintiffs in this case is in the best interest of justice and Plaintiffs.

11. Accordingly, I am pleased to move for the admissions of Mr. Gibson, Ms. Lowry and Mr. Schaffer *pro hac vice* with respect to the above-referenced matter.

12. I respectfully submit a proposed order granting the admission of Mr. Gibson, Ms. Lowry and Mr. Schaffer *pro hac vice* with respect to the above-referenced matter, which order is attached hereto as Exhibit 1-A.

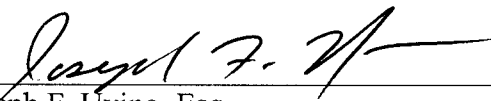
WHEREFORE it is respectfully requested that the motion to admit Mr. Gibson, Ms. Lowry and Mr. Schaffer, *pro hac vice*, to represent Plaintiffs in the above-referenced matter, be granted.

Dated: March 6, 2008  
New York, New York

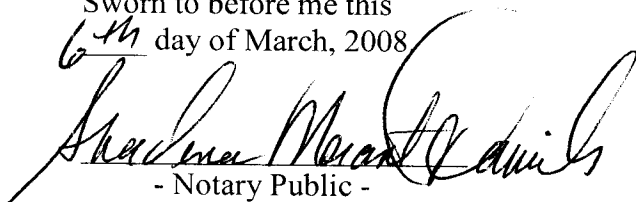
Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By

  
\_\_\_\_\_  
Joseph F. Uvino, Esq.  
SDNY Bar No. 9152  
199 Water Street, 25<sup>th</sup> Floor  
New York, New York 10038  
(212) 232-13001  
*Attorneys for Plaintiffs Harry Nieberg and  
Harry Nieberg Funeral Home Inc.*

Sworn to before me this  
6<sup>th</sup> day of March, 2008

  
- Notary Public -

SHADENA MORANT-DANIELS  
Notary Public, State of New York  
No. 24-4986342  
Qualified in Kings County  
Commission Expires Sept. 9, 2009

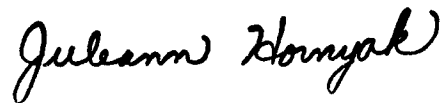
## **Certificate of Admission To the Bar of Illinois**

I, Juleann Hornyak, Clerk of the Supreme Court of Illinois, do hereby certify that

Steven Andrew Gibson

has been duly licensed and admitted to practice as an Attorney and Counselor of Law within this State; has duly taken the required oath to support the CONSTITUTION OF THE UNITED STATES and of the STATE OF ILLINOIS, and also the oath of office prescribed by law, that said name was entered upon the Roll of Attorneys and Counselors in my office on November 29, 1990 and is in good standing, so far as the records of this office disclose.

In Witness Whereof, I have hereunto  
placed my hand and affixed the seal  
of said Supreme Court, at Springfield,  
in said State, this Tuesday, February 05, 2008.



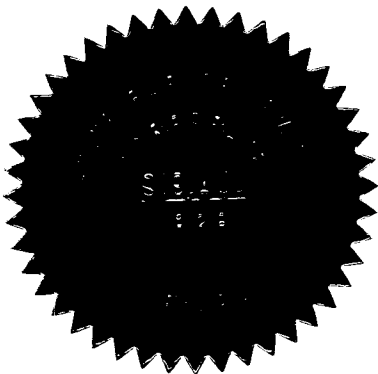
Clerk

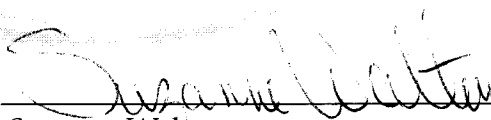
# *State Bar of Nevada*

## *Certificate of Good Standing*

*IT IS HEREBY CERTIFIED that Steven A. Gibson  
(Bar Number 6656) was admitted by the Supreme Court of the State of Nevada  
on 10/14/1998 and is an Active member of the State Bar of Nevada  
in good standing and is duly licensed to practice law as an Attorney and Counselor  
at Law in all courts of the State of Nevada.*

*DATED this Wednesday, February 20, 2008.*



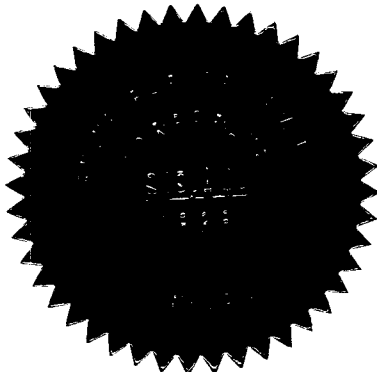
  
Suzanne Walters  
Member Services Assistant  
State Bar of Nevada

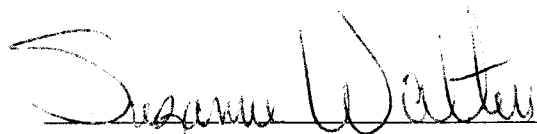


# *State Bar of Nevada*

## *Certificate of Good Standing*

*IT IS HEREBY CERTIFIED that Jodi Donetta Lowry  
(Bar Number 7798) was admitted by the Supreme Court of the State of Nevada  
on 10/05/2001 and is an Active member of the State Bar of Nevada  
in good standing and is duly licensed to practice law as an Attorney and Counselor  
at Law in all courts of the State of Nevada.  
DATED this Tuesday, February 12, 2008.*

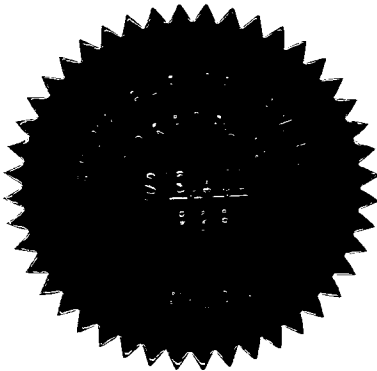


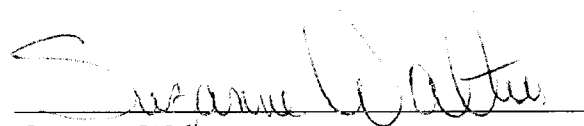
  
Suzanne Walters  
Member Services Assistant  
State Bar of Nevada

# *State Bar of Nevada*

## *Certificate of Good Standing*

*IT IS HEREBY CERTIFIED that Robert A. Schaffer  
(Bar Number 10215) was admitted by the Supreme Court of the State of Nevada  
on 10/17/2006 and is an Active member of the State Bar of Nevada  
in good standing and is duly licensed to practice law as an Attorney and Counselor  
at Law in all courts of the State of Nevada.  
DATED this Tuesday, February 12, 2008.*



  
Suzanne Walters  
Member Services Assistant  
State Bar of Nevada

UNITED STATES DISTRICT COURT FOR THE  
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Case No. : 08 CV 00392

**ORDER FOR ADMISSION  
PRO HAC VICE  
ON WRITTEN MOTION**

Upon the motion of Joseph F. Uvino, attorney for Plaintiffs HARRY NIEBERG and  
HARRY NIEBERG FUNERAL HOME INC. and said sponsor attorney's affidavit in support;  
IT IS HEREBY ORDERED that

Applicant's Name: STEVEN A. GIBSON  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

Applicant's Name: JODI DONETTA LOWRY  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

Applicant's Name: ROBERT A. SCHAFFER  
Firm Name: Lewis Brisbois Bisgaard & Smith LLP  
Address: 400 South Fourth Street, Suite 500  
City/State/Zip: Las Vegas, Nevada 89101  
Telephone: (702) 893-3383  
Facsimile: (702) 893-3789

are admitted to practice *pro hac vice* as counsel for HARRY NIEBERG and HARRY NIEBERG  
FUNERAL HOME INC., in the above captioned case in the United states District Court for the

Southern district of New York. All attorneys appearing before this Court are subject to the Local Rules of the Court, including the Rules Governing discipline of attorneys. If this Action is assigned to the Electronic Filing System, counsel shall immediately apply for an ECF password at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov). Counsel shall forward the *pro hac vice* fee to the Clerk of Court.

Dated: March \_\_\_, 2008.  
New York City, New York

By \_\_\_\_\_  
United States District/Magistrate Judge